

## Office of Chief Financial Officer, USDA

## § 3017.600

suspension decisions overturned on appeal under § 3017.515.

[54 FR 4722 and 4731, Jan. 30, 1989, as amended at 54 FR 4733, Jan. 30, 1989]

### § 3017.510 Participants' responsibilities.

(a) *Certification by participants in primary covered transactions.* Each participant shall submit the certification in Appendix A to this Part for it and its principals at the time the participant submits its proposal in connection with a primary covered transaction, except that States need only complete such certification as to their principals. Participants may decide the method and frequency by which they determine the eligibility of their principals. In addition, each participant may, but is not required to, check the Nonprocurement List for its principals (Tel. #). Adverse information on the certification will not necessarily result in denial of participation. However, the certification, and any additional information pertaining to the certification submitted by the participant, shall be considered in the administration of covered transactions.

(b) *Certification by participants in lower tier covered transactions.* (1) Each participant shall require participants in lower tier covered transactions to include the certification in Appendix B to this part for it and its principals in any proposal submitted in connection with such lower tier covered transactions.

(2) A participant may rely upon the certification of a prospective participant in a lower tier covered transaction that it and its principals are not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction by any Federal agency, unless it knows that the certification is erroneous. Participants may decide the method and frequency by which they determine the eligibility of their principals. In addition, a participant may, but is not required to, check the Nonprocurement List for its principals and for participants (Tel. #).

(c) *Changed circumstances regarding certification.* A participant shall provide immediate written notice to USDA if at any time the participant learns that its certification was erroneous when

submitted or has become erroneous by reason of changed circumstances. Participants in lower tier covered transactions shall provide the same updated notice to the participant to which it submitted its proposal.

### § 3017.515 Appeal of debarment or suspension decisions.

(a) If a decision to debar or suspend is made by a debarring or suspending official under § 3017.314 or § 3017.413, the respondent may appeal the decision to the Office of Administrative Law Judges (OALJ) by filing the appeal, in writing, to the Hearing Clerk, OALJ, United States Department of Agriculture, Washington, DC 20250. The appeal must be filed within 30 days of receiving the decision and it must specify the basis of the appeal. The decision of a debarring or suspending official under § 3017.314 or § 3017.413 may be vacated by the assigned appeals officer if the officer determines that the decision is:

- (1) Not in accordance with law;
- (2) Not based on the applicable standard of evidence; or
- (3) Arbitrary and capricious and an abuse of discretion.

(b) The appeals officer will base his/her decision solely upon the administrative record.

(c) Within 90 days of the date the appeal is filed with USDA's OALJ Hearing Clerk, the appeals officer will notify, in writing, the respondent(s) and the debarring or suspending official, who took the action being appealed, of his/her decision in the appeal. The notice must specify the reason(s) for the decision made by the appeals officer.

(d) The appeals officer's decision is final and is not appealable within USDA.

[54 FR 4733, Jan. 30, 1989]

## Subpart F—Drug-Free Workplace Requirements (Grants)

SOURCE: 55 FR 21688, 21691, May 25, 1990, unless otherwise noted.

### § 3017.600 Purpose.

(a) The purpose of this subpart is to carry out the Drug-Free Workplace Act of 1988 by requiring that—